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JUL 21 2006

REMARKS

Claims 1-30 are pending. By this Amendment, no claims are cancelled, claims 1, 2, 9, 11 and 21 are amended, and no new claims are added.

Telephone Interview Summary

Applicant appreciates the participation of the Examiner and of the Examiner's supervisor, Mr. Dunn, in the telephone interview of May 24, 2006 with Applicant's attorney Paul Onderick. In that interview, the rejection under 35 U.S.C. § 112 was discussed with particular relation to claim 1. The Examiner further commented on reasons for the rejection under § 112. No agreement was reached on amendments to claim 1.

35 U.S.C. § 112

The Examiner rejected claims 1-30 under 35 U.S.C. § 112 first paragraph. By this amendment, applicant has amended claims 1, 11 and 21 to add further detail in response to the rejection and the Examiner's comments in the interview. Claims 2 and 9 are amended to reflect the incorporation of the "measurement module" into claim 1. Applicant respectfully requests that the Examiner withdraw the rejection.

35 U.S.C. § 103

By this amendment, applicant has amended claim 1 to recite the limitation "a measurement module that receives light coming from the object that passes through the first beam splitter and senses the object located in the object plane from the received light." Applicant has amended claim 11 to recite the limitation "wherein light from the object is received by a measurement module after the light has passed through the first beam splitter." Claim 21 recites the limitation "receiving light from the object at an auto focus sensor along the first beam path passing through the first beam splitter." This limitation was present in claim 21 prior to the amendments made in this response. Further, applicant respectfully points out that the Examiner has admitted that the prior art

of record in the application does not teach "that the auto focus sensor or the infrared sensor is receiving the object information through a first beam splitter." Therefore, applicant respectfully submits that claims 1, 11 and 21, as amended, recite limitations which are not taught or suggested by any of the prior art of record. Therefore, claims 1, 11 and 21, as amended, should be patentable over the prior art of record in the application. Applicant respectfully requests that the Examiner withdraw the rejection. The remaining dependent claims in the application depend from either claims 1, 11 or 21 and should be patentable for at least the same reasons as indicated for claims 1, 11 and 21.

The Office Action indicated, with regard to the above limitations in claims 1, 11 and 21, "however such modification is considered obvious to one skilled in the art since it only involves rearranging the geometry of the device that does not affect the function of the auto focusing sensor and the auto focusing adjustment at all."

Applicant respectfully traverses this rejection. In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983); MPEP 2141.02. The argument in the Office Action does not address the obviousness of the invention as a whole but only that of the differences between the prior art and the measurement module or autofocus sensor arrangement. This arrangement of the present invention is one component in the larger structure that allows the invention as a whole to function to accomplish the coincidence of the object plane with the image plane that allows "the object and the image to be seen simultaneously substantially equally focused by the user when the user accommodates to focus on the object." This limitation is now recited in each of independent claims 1, 11 and 21. Thus,

claims 1, 11 and 21, as amended, are patentable over the prior art of record in the application.

In the alternative, the above statement has been made in the Office Action without citation or support. Applicant is unable to find support for the above-referenced assertion in the patent statute or case law. If the Examiner maintains the rejection, applicant respectfully requests that the Examiner provide a reference to support the above-referenced assertion.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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